IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1793 OF 2007

Jaylaxmi Premises Co-operative Housing
Society Limited ...Petitioner

V/s.

Karsen Danji Patel ...Respondent

Mr.G.V. Nagarsheth for Petitioner.
None for Respondent.

CORAM : V.M. KANADE, J.

DATED : 5th JULY, 2007.

P.C:-

1. Heard learned counsel appearing on behalf of Petitioner.

2. The Petitioner-Society is challenging the order passed by the Co-operative Court dated 15th March, 2005 whereby an application filed by the Petitioner-Society for restoration of dispute was dismissed. An Appeal was preferred against that order before the Co-operative Appellate Court. The Co-operative Appellate Court also confirmed the said order.

2. Learned counsel appearing on behalf of the Petitioner-Society submits that delay of five years and three months was caused

since during the aforesaid period on account of internal disputes in the Society an Administrator was appointed and therefore, the Petitioner-Society was not in a position to attend the disputes which were filed in the Co-operative Court. He submits that both the Courts below erred in holding that this was not sufficient cause for condonation of delay.

3. It is not possible to accept this submission made by the learned counsel for the Petitioner-Society. Both the Courts have given concurrent findings on facts that sufficient cause was not shown by the Petitioner-Society for condonation of delay. There is no reason to interfere with the orders passed by the lower authorities. Petition is dismissed in liminie.

4. It is further clarified that the Petitioner-Society may pursue other remedy which is available to it against unauthorised construction allegedly made by the Respondent on the terrace of the building, by filing an appropriate application before the local authority. With this directions, Petition is dismissed.

V.M. KANADE, J.